THE HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

WRIT APPEAL NO. 1608 OF 2005

DATED: 04-10-2005

Between

Jupalli Krishna Kumari.

..... PETITIONER

And

Challa Dharmaiah, S/o C. Chandraiah,

Aged 50 years, R/o Taratava, Aldveedu Mandal,

West Godavari District and others.

..... RESPONDENTS

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WRIT APPEAL NO. 1608 OF 2005

JUDGMENT: (per Sri B. Sudershan Reddy, J)

The 2nd respondent in the writ petition is the appellant before us in this writ appeal. She is aggrieved by the order passed by the learned single Judge in quashing the very first information report registered at her instance in Crime No. 30 of 2005 on the file of Akiveedu Police Station, West Godavari District. As evident from the averments made in the affidavit filed in support of the writ petition as well as the grounds raised in the appeal and the records produced before us by the learned Government Pleader for Home, there appears to be some civil dispute between the parties with regard to some piece of land. It is not necessary for this Court to express any opinion about the nature of the dispute since the same is the subject matter of various proceedings including civil suit in O.S. No. 134 of 2004 filed by the writ appellant for specific performance of agreement of sale with regard to the property in question. It is also evident from the record that an injunction has been granted in her favour by the trial Court.

Be it as it may, the appellant herein filed a report against the respondents – writ

petitioners purporting it to be under Sections 447 and 379 of IPC on the ground that the respondents – writ petitioners forcibly entered into the land in question on 31-03-2005 at 7.00 A.M and started cutting the paddy crop and shifted the same to nearby Gummuluru Village and there from shifted in two lorries to an unknown place. The police having taken the report on file registered Crime No. 30 of 2005. While the matter was under investigation, the respondents – writ petitioners invoked the jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to quash the very first information report. It appears that notice before admission was ordered by the learned Judge to the appellant as well as the official respondent. Since there was no response, the learned Judge had taken up the matter and quashed the first information report even at the stage of admission. The learned Judge disposed of the matter in the following manner:

> *"After going through the contents of the first information report, I am satisfied that it is purely a civil dispute and as noted above, a suit in O.S No. 134/2004 for specific performance with regard to the property in question, is pending and interim injunction was obtained by the 2nd respondent …… Normally, the F.I.R can be quashed under Section 482 Cr.P.C. But considering the facts and circumstances of the case, I deem it appropriate to exercise the extraordinary jurisdiction under Article 226 of the Constitution of India."*

The impugned order does not disclose as to what are the reasons that required this Court to quash the very first information report. It is very well settled and needs no re-statement in our hands that normally this Court in exercise of its jurisdiction under Article 226 of the Constitution of India will not quash the very first information report unless extraordinary circumstances are clearly brought out on record requiring this Court's interference. As observed by the Supreme Court in more than one case, interference with the first information report could be only in rarest of rare cases. The learned Judge did not assign any reasons for quashing the first information report.

However, learned counsel for the respondents – writ petitioners, Smt. Sesharajyam submits that it would be appropriate to hear the matter after the counter affidavits are filed by the respondents and the matter may be disposed of on merits after hearing

all the parties since the writ appellant as well as the learned Government Pleader were not heard in the matter when the writ petition was allowed.

We find it difficult to sustain the impugned order since the same is not supported by any reasons. The impugned order is accordingly quashed. The writ petition shall stand revived to its file for being heard at the stage of admission. The writ petition is directed to be listed for admission before the appropriate Court for hearing and disposal. The learned counsel for the writ appellant undertakes to file a detailed counter affidavit within a period of two weeks. Learned Government Pleader for Home shall produce the records before the learned Judge. Post the writ petition 'for admission' on 24-10-2005.

The Writ Appeal is accordingly allowed.

(B. Sudershan Reddy, J)

04..10..2005

(S. Ananda Reddy, J)

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